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DATE MAILED: 10/05/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/720,620	11/24/2003	Erik Surewaard	81044752	4250	
22844 7	10/05/2004		EXAM	EXAMINER	
	BAL TECHNOLOGIE	DOLINAR, ANDREW M			
SUITE 600 - I ONE PARKLA	PARKLANE TOWERS	EAST	ART UNIT	PAPER NUMBER	
DEARBORN,			3747		

Please find below and/or attached an Office communication concerning this application or proceeding.

			$\Lambda \wedge \Lambda$		
	Application No.	Applicant(s)	1/1/		
	10/720,620	SUREWAARD ET AL	ju		
Office Action Summary	Examiner	Art Unit			
	Andrew M. Dolinar	3747			
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the o	orrespondence addre	ess		
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period v Failure to reply within the set or extended period for reply will, by statute. Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be tir or within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this comm D (35 U.S.C. § 133).	nunication.		
Status					
1) Responsive to communication(s) filed on	_ ∙				
	action is non-final.				
3) Since this application is in condition for allowar			erits is		
closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 4	53 O.G. 213.			
Disposition of Claims					
4) Claim(s) 1-13 is/are pending in the application.					
4a) Of the above claim(s) is/are withdraw	wn from consideration.				
5) Claim(s) is/are allowed.					
6)⊠ Claim(s) <u>1-10,12 and 13</u> is/are rejected.					
7) Claim(s) <u>11</u> is/are objected to.					
8) Claim(s) are subject to restriction and/o	r election requirement.				
Application Papers					
9)☐ The specification is objected to by the Examine	er.				
	☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.				
Applicant may not request that any objection to the					
Replacement drawing sheet(s) including the correct					
11)☐ The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-	-152.		
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority document application from the International Bureau 	s have been received. s have been received in Applicat rity documents have been receiv	ion No	age		
* See the attached detailed Office action for a list		ed.			
Attachment(s) 1) Notice of References Cited (PTO-892)	4) 🔲 Interview Summar	/ (PTO-413)			
 Notice of References Cited (170-032) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 11/24/03. 	Paper No(s)/Mail D		52)		

DETAILED ACTION

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pfaff et al (US 5,713,320). The engine is positioned for starting as disclosed at column 4, lines 36-56. Positioning with respect to motoring torque as claimed is either inherent or would have been an obvious matter of routine optimization to one having ordinary skill in the art at the time the invention was made.

"[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

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Allowable Subject Matter

Claim 11 is objected to as being dependent upon a rejected base claim, but would be

allowable if rewritten in independent form including all of the limitations of the base claim and

any intervening claims.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. Downs (US 6,453,864 B1) discloses an engine control system that positions the

engine at a low torque starting position when shutting down.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Andrew M. Dolinar whose telephone number is (703) 308-1948. The

examiner can normally be reached on Mon. - Thu. 7:45 - 6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew M. Dolinar

Primary Examiner

Art Unit 3747

AMD